

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
GREEN MOTOR LINES**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Green Motor Lines, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Green Motor Lines” means the company certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. “Facility” means the petroleum dispensing stations located in Roanoke, Virginia.

8. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Green Motor Lines owns and operates a petroleum distribution operation that services facilities in Roanoke, Virginia. These facilities are subject to the Emission Standards for Petroleum Liquid Storage and Transfer Operations, which states that gasoline transfers into underground storage tanks, within Roanoke County, must utilize Stage I Vapor Recovery Systems.
2. DEQ has noted two apparent violations of the Air Pollution Control Law and Regulations. These apparent violations, noted in a September 25, 2002 Warning Letter, and a March 13, 2003 Notice of Violation, include:
 - A. On September 19, 2002, DEQ staff observed a Green Motor Lines (an independent petroleum delivery company) petroleum transport truck unloading gasoline at the Jamison Avenue Getty Mart (#71031) facility without utilizing Vapor Recovery Control equipment. Staff inspected the facility and observed that the Vapor Recovery Control equipment was installed, but that the driver of the transport truck had failed to utilize it. Staff informed the driver, Mr. Stephen King, and the independent dealer/operator of the apparent violation and requested that the equipment be utilized for any further shipments received.
 - B. On March 12, 2003, DEQ staff observed a Green Motor Lines (an independent petroleum delivery company) petroleum transport truck unloading gasoline at the Peters Creek Road Getty Mart (#71704) facility without utilizing Vapor Recovery Control equipment. Staff inspected the facility and observed that the Vapor Recovery Control equipment was installed, but the driver of the transport truck stated that the system was not operating correctly. Staff informed the driver, Mr. Tommy Dooley, and the store manager of the apparent violation and stated that enforcement would ensue.

The observations above are cited under the following regulation.

Section 9 VAC 5-50-5220.E of the State Air Pollution Control Board Regulations states that no owners or other person shall allow the transfer or permit the transfer of gasoline into any stationary storage tank, located in Roanoke County, unless such tank is equipped with a vapor control system that will remove, destroy, or

prevent the discharge into the atmosphere of at least 90% by weight of Volatile Organic Compound emissions.

3. Green Motor Lines has stated that the operators have been informed of the requirements for Vapor Recovery and that the control equipment will be used in the future.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Green Motor Lines, and Green Motor Lines agrees, to perform the actions described below and in Appendices A and B of this Order. In addition, the Board orders Green Motor Lines, and Green Motor Lines voluntarily agrees to pay a civil charge of **\$1,960.00** in settlement of the violations cited in this Order.

\$1,960.00 of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Green Motor Lines's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Green Motor Lines, for good cause shown by Green Motor Lines, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Green Motor Lines by DEQ on March 13, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

3. For purposes of this Order and subsequent actions with respect to this Order, Green Motor Lines admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Green Motor Lines consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Green Motor Lines declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Green Motor Lines to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Green Motor Lines shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Green Motor Lines shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Green Motor Lines shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Green Motor Lines. Notwithstanding the foregoing, Green Motor Lines agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Green Motor Lines. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Green Motor Lines from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Green Motor Lines voluntarily agrees to the issuance of this Order.

And it is so ORDERED this ____ day of _____, 2003.

Robert G. Burnley, Director
Department of Environmental Quality

Green Motor Lines voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 2003, by _____, who is
(name)

_____ of Green Motor Lines, on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

Green Motor Lines shall:

1. From the effective date of the Order, ensure that all shipments of gasoline delivered shall be unloaded using the Vapor Recovery Control equipment at the facility.